

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

BEFORE THE INDIANA
COMMISSIONER OF INSURANCE

CAUSE NO.: 17213-AG18-0727-126

IN THE MATTER OF:)

Marshall Purvis)
6667 Longwoods Circle)
Indianapolis, IN 46254)

Respondent.)

Type of Agency Action: Enforcement)

License Number: 408106)

FILED

SEP 30 2019

STATE OF INDIANA
DEPT. OF INSURANCE

FINAL ORDER

On July 31, 2019, the Administrative Law Judge, Reuben B. Hill, filed his Findings of Fact, Conclusions of Law and Recommended Order in the above-captioned matter.

1. The Department served Findings of Fact, Conclusions of law, and Recommended Order on Respondent by mailing the same to his counsel of record.

2. The Department has complied with the notice requirements of Ind. Code §4-21.5-3-17.

3. Respondent's counsel timely filed an objection on August 16, 2019.


Therefore, the Commissioner of Insurance, being fully advised, now hereby adopts in full the Administrative Law Judge's Findings of Fact, Conclusions of Law, and Recommended Order and issues the following Final Order:

IT IS THEREFORE ORDERED by the Commissioner of Insurance:

1. Respondent's Resident Producer License #408106 is permanently revoked.

Under Ind. Code §4-21.5-5-5, Respondent has the right to appeal this Final Order by filing a petition for Judicial review in the appropriate court within thirty (30) days.

ALL OF WHICH IS ORDERED by the Commissioner this 30 day of September
2019.


Stephen W. Robertson, Commissioner
Indiana Department of Insurance

Copies to:

Marshall Purvis
c/o Angela Coe, Counsel for Respondent
1111 E. 54th Street, Suite 103
Indianapolis, IN 46220

Erica J. Dobbs, Attorney
Indiana Department of Insurance
311 W. Washington St., Suite 103
Indianapolis, IN 46204

STATE OF INDIANA) BEFORE THE INDIANA
COUNTY OF MARION) COMMISSIONER OF INSURANCE
IN THE MATTER OF:)
Marshall Purvis) CAUSE NO: 17213-AG18I-0727-126
6667 Longwoods Circle)
Indianapolis, IN 46254)

Respondent.

Type of Agency Action: Enforcement)

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AUG 16 2019

**STATE OF INDIANA
DEPT. OF INSURANCE**

**RESPONDENT'S OBJECTION TO THE ORDER OF THE ADMINISTRATIVE
LAW JUDGE'S PROPOSED FINDINGS OF FACT, CONCLUSIONS OF LAW
AND RECOMMENDED ORDER**

This matter having come for a hearing on May 29, 2019 at 10::00 a.m. for an Administrative Hearing. And, Administrative Law Judge Reuben Hill, having heard testimony from the Indiana Department of Insurance, represented by Attorney Erica J. Hobbs, and the Respondent Marshall Purvis, represented by his counsel, Attorney Angela D. Coe. And the Judge having reviewed evidence submitted by the parties.

And, the Administrative Law Judge having submitted the Findings of Facts and Conclusions of Law and the Recommended Order. The Respondent hereby files his Objection to the Recommended Order of permanent revocation as recommended by the Administrative Law Judge. Specifically,

1. Respondent files this objection and states that the law was not fully applied to the facts in this matter. A person has an insurable interest in the life of another, where there is a reasonable probability that he will gain by the latter's remaining alive, or lose by his

death...." State v. Willett, 171 Ind. 296, 306, 86 N.E. 68, 71 (1908). It is well settled in this state that an insurable interest does not arise from the mere fact of the kinship shown, but must be a pecuniary one, and be disclosed by the facts alleged.”).

2. The Respondent had a longstanding business and personal relationship with the insured, Mr. Runnells.
3. The Respondent worked with the insured Mr. Runnells for over 18 years, not only in a business capacity to assist him in his financial affairs, but also assisted him with the financial planning for Mr. Runnells’ disabled son.
4. In that capacity, Mr. Runnells was a client of the Respondent from which the Respondent earned money over the years and on a consistent basis.
5. The Respondent certainly gained from Mr. Runnells being alive as the monies the Respondent earned from his work, writing insurance policies, and financial planning for Mr. Runnells and his family, was part of the Respondents’ consistent and reliable source of income.
6. Because of the long-standing business relationship with Mr. Runnells, the Respondent would have suffered a loss upon Mr. Runnells passing.
7. The Respondent fits within the definition of having an insurable interest.
8. If the Commission does find that the Respondent violated Indiana Code 27-1-15.6-31, the Indiana Code 27-1-15.6-12(b) does authorize and provide the commissioner with other penalties than the recommended order, specifically the code authorizes the commissioner to reprimand, levy a civil penalty, place an insurance producer on probation, suspend an insurance producer’s license, or revoke an insurance producer’s license for a period of years.

9. The Respondent has been a licensed insurance agent since 2001 and has had no complaints, violations or issues with his license or with the Indiana Department of Insurance.
10. The Respondent was swift in resolving and correcting this problem.
11. The Respondent is 56 years old and writing insurance policies is his source of income, livelihood and means of living and he enjoys helping people and representing their best interests.
12. The Respondent has maintained his training and certifications that are required by the state in order to be in good standing with his license.
13. The Respondent had no ill-motives or deceptive intent with Mr. Runnells or any of his other clients.
14. Respondent respectfully requests the commissioner to place him on probation for this matter or another penalty less harsh and damaging as permanent revocation.
15. Wherefore, the Respondent respectfully submits his Objection to the Recommended Order.

/s/Marshall Purvis, Respondent

/s/Angela D. Coe, #23905-49
Attorney at Law

Dated: August 16, 2019

Law Office of Angela D. Coe, LLC
Attorney at Law
1111 E. 54th Street, Suite 103
Indianapolis, IN 46220

Distribution:

Erica Dobbs, Attorney
Indiana Department of Insurance
311 W. Washington Street, Suite 103
Indianapolis, IN 46204

STATE OF INDIANA)
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BEFORE THE INDIANA
COMMISSIONER OF INSURANCE

CAUSE NUMBER: 17213-AG18-0727-126

IN THE MATTER OF:

Marshall Purvis
6667 Longwoods Circle
Indianapolis, Indiana 46254

Respondent.

Type of Agency Action: Enforcement

License Number: 408106

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JUL 31 2019

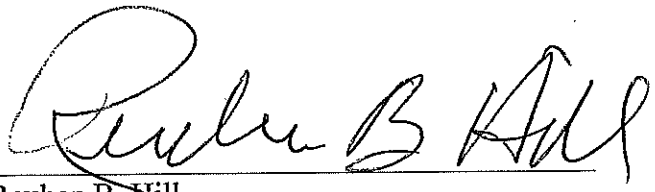
STATE OF INDIANA
DEPT. OF INSURANCE

NOTICE OF FILING OF RECOMMENDED ORDER

The parties of this action are hereby notified that the Administrative Law Judge's
Recommended Order is filed as of this date.

To preserve an objection to this order for judicial review, the Parties must object to the
order in a writing that: 1) Identifies the basis for the objection with reasonable particularity; and
2) Is filed with the ultimate authority for the Final Order, the Commissioner of the Department of
Insurance within eighteen (18) days from the date of this Order.

DATED: 7/31/19


Reuben B. Hill
Administrative Law Judge

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

BEFORE THE INDIANA
COMMISSIONER OF INSURANCE

IN THE MATTER OF:)

Marshall Purvis)
6667 Longwoods Circle)
Indianapolis, Indiana 46254)

Respondent)

Type of Agency Action: Enforcement)

Application ID: 408106)

CAUSE NO.: 17213-AG18-0727-126

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JUL 31 2019

STATE OF INDIANA
DEPT. OF INSURANCE

**FINDINGS OF FACT, CONCLUSIONS OF LAW
AND RECOMMENDED ORDER**

Administrative Law Judge Reuben B. Hill ("ALJ"), having heard, reviewed and considered all of the evidence, now renders a decision concerning the matter of Marshall Purvis ("Respondent"). This matter came on to be heard by the ALJ on May 29, 2019 at 10:00 a.m. at the Indiana Department of Insurance at 311 West Washington Street, Indianapolis, Indiana.

The Enforcement Division of the Indiana Department of Insurance ("Department") was represented by counsel, Erica J. Dobbs. Respondent appeared in person and by counsel Angela Coe. Testimony was heard, and exhibits were received into evidence.

Based upon the evidence presented at said hearing, the ALJ now makes the following Findings of Fact, Conclusions of Law, and issues his Recommended Order.

FINDINGS OF FACT

1. Respondent has been a licensed Resident Insurance Producer since July 27, 2001.
(Hearing Transcript, p. 22)
2. The Department received a consumer complaint alleging that Respondent had made himself a beneficiary on the consumer's annuity. (Department's Exhibit 2; Hearing Transcript, p. 10)
3. Respondent became the consumer's insurance agent in November, 2001. (Hearing Transcript, p. 22)
4. Respondent did not have any relationship with the consumer prior to becoming his insurance agent. They are not related, neither has ever been financially dependent on the other, and he is not the consumer's legal guardian. (Hearing Transcript p. 35-36)
5. Respondent testified that after the consumer's wife passed away on August 27, 2015, he was contacted by the consumer's family and asked to help with the consumer's finances.
(Hearing Transcript, p. 35)
6. On September 8, 2015, Respondent and the consumer entered into a "Disclosure and Retainment [sic] of Services"). (Department's Exhibit 1; Hearing Transcript, p. 35)
7. Per the Contract, Respondent would provide 'advising and assistance to carry out the settlement of [consumer's wife's] property and insurance claims and the continuation and monitoring of [consumer's disabled son] for POA and Medical Information" in exchange for a Two Thousand Dollar (\$2,000.00) retainer fee and Fifty Dollar (\$50.00) hourly fee.
(Department's Exhibit 1; Hearing Transcript, p. 24, 36)

8. Respondent testified the Contract was written by an attorney on Respondent's behalf.
(Hearing Transcript, p. 47)
9. Acting under the Contract in 2016, Respondent wrote an Annuity, in which the consumer was the annuitant, funded with money from consumer's deceased wife's investments.
(Department's Exhibit 2; Hearing Transcript, p. 37)
10. In February, 2017, Respondent made himself the sole, irrevocable beneficiary on the 2016 Annuity. (Department's Exhibit2; Hearing Transcript, p. 37-38)
11. An irrevocable beneficiary is a beneficiary on a life insurance policy or annuity that cannot be removed without the beneficiary's permission. (Hearing Transcript, p. 14)
12. As of May 15, 2018, the value of the 2016 Annuity was \$95,598.94. (Department's Exhibit 2; Hearing Transcript, p. 39)
13. Respondent testified that his purpose in being the named beneficiary on the Annuity was to care for the consumer's disabled son. (Hearing Transcript, p. 42)
14. Respondent further testified that he and the consumer had an oral agreement that the money he inherited as beneficiary of the Annuity would go to the consumer's grandchildren, but that agreement was not contained within the Contract or any other written document. (Hearing Transcript, p. 42,46)
15. The Department requested Respondent remove himself as beneficiary from the Annity on September 10, 2018, and Respondent did so on September 12, 2018. (Respondent's Exhibit A; Hearing Transcript, p. 19,29)
16. Respondent submitted three (3) exhibits at the hearing. Respondent's Exhibit A is the September 12, 2018 Change of Beneficiary Form through which Respondent removed

himself as beneficiary from the consumer's Annuity. Respondent's Exhibits B and C are personal reference letters from friends and colleagues.

17. Conclusions of Law that can be adopted as Findings of Fact are hereby incorporated herein as such.

CONCLUSIONS OF LAW

1. The Commissioner of the Indiana Department of Insurance ("Commissioner") has jurisdiction over both the subject matter and the parties to this action.
2. This hearing was held in compliance with the Administrative Orders and Procedures Act of the Indiana Code.
3. Indiana Code 27-1-15.6-12(b) states, in part, that the Commissioner may permanently revoke an Insurance Producer License, due to a number of factors.
4. Specifically, Indiana Code 27-1-15.6-12(b)(16) authorizes the Commissioner to permanently revoke an Insurance Producer License for violating Indiana Code 27-1-15.6-31.
5. Indiana Code 27-1-15.6-31 states, in part, that an Insurance Producer shall not be named a beneficiary of an individual annuity contract unless the insurance producer has an insurable interest in the life of the annuitant.
6. Under Indiana law, "[A] person has an insurable interest in the life of another, where there is a reasonable probability that he will gain by the latter's remaining alive, or lose by his death". State v. Willett, 86 N.E. 68,71 (Ind. 1908) (internal quotations and citations omitted)
7. Respondent's Contract with an Indiana consumer is not sufficient to grant him an insurable interest in the life of the consumer for purposes of Indiana Code 27-1-15.6-31.

8. Indiana Code 4-21.5-3-14(c) states that the person requesting an agency take action has the burden of persuasion and the burden of going forward. The Department is requesting that the Commissioner permanently revoke Respondent's Resident Producer License.
9. The Department has met its burden of showing Respondent violated Indiana Code 27-1-15.6-31 and that Respondent's Resident Producer License should be revoked.
10. Findings of Fact that can be adopted as Conclusions of Law are hereby incorporated herein as such.

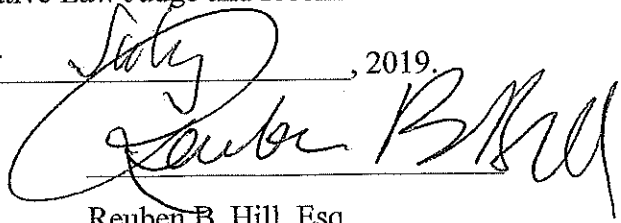
RECOMMENDED ORDER

IT IS THEREFORE RECOMMENDED:

In consideration of the foregoing Findings of Fact and the Conclusions of Law as stated, the Administrative Law Judge now recommends to the **Commissioner of Insurance** the following:

1. That Respondent's Resident Producer License #408106 be permanently **REVOKED**, effective the date the Final Order is issued.

ALL OF WHICH IS ADOPTED by the Administrative Law Judge and recommended to the Commissioner of Insurance this 31st day of July, 2019.


Reuben B. Hill, Esq.
Administrative Law Judge

Distribution:

Marshall Purvis
c/o Angela Coe, Counsel for Respondent
1111E. 54th Street, Suite 103
Indianapolis, Indiana 46220

Erica J. Dobbs, Attorney
Indiana Department of Insurance
311 W. Washington St., Suite 103
Indianapolis, Indiana 46204

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APR 15 2019

STATE OF INDIANA
DEPT. OF INSURANCE

STATEMENT OF CHARGES

The Enforcement Division of the Indiana Department of Insurance ("Department"), by counsel, Erica J. Dobbs, pursuant to the Indiana Administrative Orders and Procedures Act, Indiana Code § 4-21.5-1 *et seq.*, files its Statement of Charges against Marshall Purvis ("Respondent") as follows:

FACTS

1. Marshall Purvis ("Respondent") is a licensed resident insurance producer, holding license number 408106 since July 27, 2001.
2. On May 9, 2018, the Department received a complaint from an Indiana consumer ("Complainant").
3. Respondent has been Complainant's insurance agent for approximately fourteen (14) years.
4. On September 8, 2015, Respondent entered into a "business arrangement" with Complainant, wherein Respondent would serve as financial advisor, consultant, and overseer of Complainant's household dealings and those of his disabled adult son.

5. On or about February 23, 2016, purportedly as part of the Business Arrangement, Respondent become the sole irrevocable beneficiary on an annuity of which Complainant is the annuitant.
6. Respondent neither has nor had any insurable interest in Complainant's life.

CHARGES

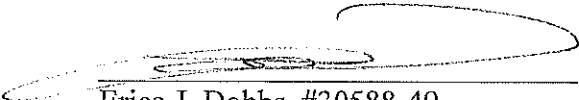
COUNT I

1. Averments 1 through 6 are incorporated fully herein by reference.
2. Indiana Code § 27-1-15.6-12(b)(16) states, in part, that the Commissioner may permanently revoke an insurance producer's license for violating Indiana Code § 27-1-15.6-31.
3. Respondent's conduct is in violation of Indiana Code § 27-1-15.6-31, which states that an insurance producer shall not be named a beneficiary of an individual life insurance policy or individual annuity contract unless the insurance producer has an insurable interest in the life of the insured or annuitant.

WHEREFORE, the Enforcement Division of the Indiana Department of Insurance, by counsel, Erica J. Dobbs, requests that the Commissioner set this matter for a hearing pursuant to Indiana Code § 4-21.5, and:

1. Issue an order permanently revoking Respondent's insurance producer license;
2. All other relief just and proper in the premises.

Respectfully submitted,

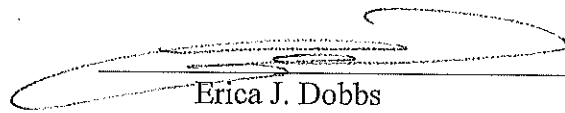

Erica J. Dobbs, #30588-49
Attorney, Enforcement Division

Erica J. Dobbs
Indiana Department of Insurance
Enforcement Division
311 West Washington Street, Suite 103
Indianapolis, Indiana 46204-2787
Telephone: (317) 234-5887
Facsimile: (317) 232-5251

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing has been served upon the following Respondent by
United States first class mail, postage prepaid, the same day as filing.

Marshall Purvis
c/o Attorney Angela Cole
1111 E. 54th Street, Suite 103
Indianapolis, IN 46220


Erica J. Dobbs